

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13907, of Charles and Anna Vaccaro, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-section 7104.2 to change a non-conforming use from delicatessen-carryout and bakery, first floor, to a delicatessen-carryout and restaurant, first floor, in an HR/SP-2 District at premises 747 - 4th Street and 314 H Street, N.W., (Square 529, Lots 21 and 30).

HEARING DATE: January 26, 1983

DECISION DATE: January 26, 1983 (Bench Decision)

FINDINGS OF FACT:

1. The subject site is located at the southeast corner of the intersection of 4th and H Streets, N.W. and is known as premises 314 H Street, N.W. It is zoned HR/SP-2.

2. The subject site is improved with a three-story and basement brick building which occupies 100 percent of the lot.

3. Uses surrounding the subject site include several rooming houses, two high-rise apartment buildings, several surface parking lots, office uses and a grocery store/carry-out.

4. The property presently has valid certificates of occupancy for a delicatessen-carry-out and a bakery, both of which are first permitted in a C-1 District. The bakery has recently been relocated outside of the District of Columbia. The deli-carry-out has been located at the subject premises and been operated by the Vaccaro family since 1906.

5. The applicant proposes to provide restaurant seating for thirty-nine customers in that portion of the structure previously occupied by the bakery. The proposed restaurant use is permitted in a C-1 District.

6. The applicant testified that the interior renovation required to provide the restaurant seating was completed by his contractor in March, 1982. The applicant testified further that he depended on the contractor to obtain the necessary permits for the renovation. Upon his discovery that the proper permit procedure had not been followed, the applicant chained off the seating area and has

not used that space in the operation of his business pending the receipt of Board approval and proper permits.

7. The existing deli-carry-out and the proposed restaurant constitute a neighborhood facility in that it will serve a local clientele, with substantially all of its business coming from walk-in patrons who reside or work in the surrounding area.

8. The hours of operation are from 8 A.M. to 8 P.M., Monday through Friday and from 9 A.M. to 4 P.M. on Saturday.

9. The exterior of the building, including signs, will not be altered. Existing signs have been approved by the Fine Arts Commission.

10. There is no requirement for off-street parking since the subject building was constructed prior to 1958 and has a parking credit for the existing non-conforming use. There is sufficient off-street parking available in an adjacent commercial lot which has a capacity for approximately 200 cars. On-street parking is also available.

11. The existing deli-carry-out has an on-street loading zone in front of the building.

12. The surrounding area is primarily developed with commercial, office and high-density residential uses. Vaccaro's has existed on this site for many years and is not likely to have an adverse affect on the future development or the character of the immediate area.

13. Since the proposed use does not involve use outside the existing building, there will be no need for special screening or protective measures to be imposed by the Board.

14. Delores Murray appeared at the public hearing in support of the application. Ms. Murray testified that Vaccaro's is an asset to the neighborhood which the residents of the area would like to see continue.

15. The record contains a petition in favor of the proposed use signed by approximately 750 patrons of Vaccaro's. In addition, Councilman John Wilson submitted a letter supporting the application. There was no opposition to the application at the public hearing or of record.

16. The Chairman of Advisory Neighborhood Commission 2C, by letter dated December 28, 1982, supported the application noting the applicant's intention to provide a better working environment, beautification of the premises providing customers with a place where they can set down and enjoy their meal and the enthusiasm of the 750 petitioners.

17. The Office of Planning, by memo dated January 17, 1983, recommended approval of this application. The Office of Planning was of the opinion that the applicant meets the conditions specified in Sub-section 7104.2 and Section 7109 and the general purpose and intent of Sub-section 8207.2. The Board concurs with the Office of Planning's recommendation.

CONCLUSIONS OF LAW AND OPINION:

Based on the findings of fact and the evidence of record, the Board concludes that the applicant is seeking a special exception. In order to be granted such relief, the applicant must demonstrate, through substantial evidence, compliance with the requirements of Sub-section 7104.2, Section 7109 and Sub-section 8207.2 of the Zoning Regulations.


The Board concludes that the applicant has so complied. The proposed use is permitted in the most restrictive district in which the existing use is permitted. The proposed use will be a neighborhood facility that will be generally compatible with existing and potential development in the area. The proposed use will not create dangerous or objectionable traffic conditions.

The Board concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to adversely affect the use of neighboring property. It is therefore ORDERED that the application is GRANTED.

VOTE: 5-0 (Walter B. Lewis, William F. McIntosh, Carrie Thornhill, Douglas J. Patton and Charles R. Norris to GRANT).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER:

FEB 18 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

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